

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA COMMISSIONER OF COMMERCE

In the Matter of Christi Marie Larson,
Individually and Doing Business as
Absolut Hair

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge George A. Beck, commencing at 2:00 p.m. on Monday, April 27, 1998, at the Office of Administrative Hearings, 100 Washington Avenue South, in the City of Minneapolis, Minnesota.

Philip H.M. Grove, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce (Department). The Respondent did not appear at the prehearing conference. The record closed on April 27, 1998, upon the Respondent's default.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact David B. Gruenes, Commissioner, Department of Commerce, 133 E. 7th Street, St. Paul, Minnesota 55155, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not disciplinary action should be taken against the Respondent or a civil penalty imposed against her for unlicensed activity, giving false information to the Department, and failing to appear before the Commissioner.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On March 25, 1998, the Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges in this matter was mailed to the Respondent, via certified mail, at its last known address, 5445 28th Avenue South, Minneapolis, Minnesota 55417.

2. The Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges mailed to the Respondent contained the following statement:

If Respondent fails to attend or otherwise appear at the prehearing conference or settlement conference or the hearing or fails to comply with any interlocutory order of the judge in this matter after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved and a civil penalty may be imposed against Respondent without further proceedings.

3. The Respondent did not appear at the April 27 prehearing, she made no request for a continuance, nor did she file a Notice of Appearance.

4. The Department served a set of Request for Admissions on the Respondent on March 27, 1998, but Respondent has made no response and has not requested an extension of time to respond as of April 27, 1998.

5. The allegations of the Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Commissioner of Commerce and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 45.027, 155A and 14.50

2. The Respondent was given timely and proper notice of the prehearing conference in this matter.

3. The Department has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000, the Respondent is in default as a result of its failure to appear at the scheduled prehearing conference.

5. Under Minn. Rule 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true or deemed proved when a party defaults.

6. Based upon the facts set out in the Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges, the Respondent has violated Minn. Stat. §§ 45.027, subd. 1a, 45.027, subd. 7(3), 155A.07, Subd. 1, and 155A.08, subd. 1.

7. An order is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against Respondent and that the Commissioner consider civil penalties.

Dated this 30th day of April 1998.

GEORGE A. BECK
Administrative Law Judge

NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.